

**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Statement of Issues Against:

Case No. 4127

LIEW SAETURN

Applicant

Respondent.

DECISION AND ORDER

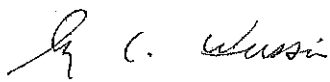
The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on November 26, 2012.

It is so ORDERED on October 25, 2012.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



STANLEY C. WEISSER
Board President

1 KAMALA D. HARRIS
Attorney General of California
2 DIANN SOKOLOFF
Supervising Deputy Attorney General
3 SHANA A. BAGLEY
Deputy Attorney General
4 State Bar No. 169423
1515 Clay Street, 20th Floor
5 P.O. Box 70550
Oakland, CA 94612-0550
6 Telephone: (510) 622-2129
Facsimile: (510) 622-2270
7 *Attorneys for Complainant*

8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Statement of Issues
Against:

Case No. SI 2011 4224

12 **LIEW K. SAETURN**

OAH No. 2012070009

13
14 Respondent.

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
18 entitled proceedings that the following matters are true:

19 **PARTIES**

20 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.
21 She brought this action solely in her official capacity and is represented in this matter by Kamala
22 D. Harris, Attorney General of the State of California, by Shana A. Bagley, Deputy Attorney
23 General.

24 2. Respondent Liew K. Saeturn (Respondent) is representing herself in this proceeding
25 and has chosen not to exercise her right to be represented by counsel.

26 3. On or about February 18, 2011, Respondent filed an application dated January 12,
27 2011, with the Board of Pharmacy to obtain a Pharmacy Technician Registration.

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1 **JURISDICTION**

2 4. Statement of Issues No. SI 2011 4224 was filed before the Board of Pharmacy
3 (Board), Department of Consumer Affairs, and is currently pending against Respondent. The
4 Statement of Issues and all other statutorily required documents were properly served on
5 Respondent on June 4, 2012. 4.1. A copy of Statement of Issues No. SI 2011 4224 is attached
6 as exhibit A and incorporated by reference.

7 **ADVISEMENT AND WAIVERS**

8 5. Respondent has carefully read, and understands the charges and allegations in
9 Statement of Issues No. SI 2011 4224. Respondent has also carefully read, and understands the
10 effects of this Stipulated Settlement and Disciplinary Order.

11 6. Respondent is fully aware of her legal rights in this matter, including the right to a
12 hearing on the charges and allegations in the Statement of Issues; the right to be represented by
13 counsel at her own expense; the right to confront and cross-examine the witnesses against her; the
14 right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas
15 to compel the attendance of witnesses and the production of documents; the right to
16 reconsideration and court review of an adverse decision; and all other rights accorded by the
17 California Administrative Procedure Act and other applicable laws.

18 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
19 every right set forth above.

20 **CULPABILITY**

21 8. Respondent admits the truth of each and every charge and allegation in Statement of
22 Issues No. SI 2011 4224.

23 9. Respondent agrees that her Pharmacy Technician Registration is subject to denial and
24 she agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order
25 below.

26 **CIRCUMSTANCES IN MITIGATION**

27 10. Respondent Liew K. Saeturn has never been the subject of any disciplinary action.
28 She is admitting responsibility at an early stage in the proceedings.

CONTINGENCY

11. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

12. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

13. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

14. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

Upon satisfaction of all statutory and regulatory requirements for issuance of a license, a license shall be issued to respondent and immediately revoked; the order of revocation is stayed and respondent is placed on five (5) years probation on the following terms and conditions:

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1 **1. Certification Prior to Resuming Work**

2 Respondent shall be automatically suspended from working as a pharmacy technician until
3 she is certified as defined by Business and Professions Code section 4202, subdivision (a)(4), and
4 provides satisfactory proof of certification to the board. Respondent shall not resume working as
5 a pharmacy technician until notified by the board. Failure to achieve certification within one (1)
6 year shall be considered a violation of probation. Respondent shall not resume working as a
7 pharmacy technician until notified by the board.

8 During suspension, respondent shall not enter any pharmacy area or any portion of any
9 other board licensed premises (wholesaler, veterinary food-animal drug retailer or any other
10 distributor of drugs) any drug manufacturer, or any other location where dangerous drugs and
11 devices or controlled substances are maintained. Respondent shall not do any act involving drug
12 selection, selection of stock, manufacturing, compounding or dispensing; nor shall respondent
13 manage, administer, or assist any licensee of the board. Respondent shall not have access to or
14 control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled
15 substances. Respondent shall not resume work until notified by the board.

16 Subject to the above restrictions, respondent may continue to own or hold an interest in any
17 licensed premises by the board in which she holds an interest at the time this decision becomes
18 effective unless otherwise specified in this order.

19 Failure to comply with this suspension shall be considered a violation of probation.

20 **2. Obey All Laws**

21 Respondent shall obey all state and federal laws and regulations.

22 Respondent shall report any of the following occurrences to the board, in writing, within
23 seventy-two (72) hours of such occurrence:

- 24 ☐ an arrest or issuance of a criminal complaint for violation of any provision of the
25 Pharmacy Law, state and federal food and drug laws, or state and federal controlled
26 substances laws
27 ☐ a plea of guilty or nolo contendere in any state or federal criminal proceeding to any
28 criminal complaint, information or indictment

- 1 ☐ a conviction of any crime
- 2 ☐ discipline, citation, or other administrative action filed by any state or federal agency
- 3 which involves respondent's Pharmacy Technician Registration or which is related to
- 4 the practice of pharmacy or the manufacturing, obtaining, handling, distributing,
- 5 billing, or charging for any drug, device or controlled substance.

6 Failure to timely report any such occurrence shall be considered a violation of probation.

7 **3. Report to the Board**

8 Respondent shall report to the board quarterly, on a schedule as directed by the board or its

9 designee. The report shall be made either in person or in writing, as directed. Among other

10 requirements, respondent shall state in each report under penalty of perjury whether there has

11 been compliance with all the terms and conditions of probation. Failure to submit timely reports

12 in a form as directed shall be considered a violation of probation. Any period(s) of delinquency

13 in submission of reports as directed may be added to the total period of probation. Moreover, if

14 the final probation report is not made as directed, probation shall be automatically extended until

15 such time as the final report is made and accepted by the board.

16 **4. Interview with the Board**

17 Upon receipt of reasonable prior notice, respondent shall appear in person for interviews

18 with the board or its designee, at such intervals and locations as are determined by the board or its

19 designee. Failure to appear for any scheduled interview without prior notification to board staff,

20 or failure to appear at two (2) or more scheduled interviews with the board or its designee during

21 the period of probation, shall be considered a violation of probation.

22 **5. Cooperate with Board Staff**

23 Respondent shall cooperate with the board's inspection program and with the board's

24 monitoring and investigation of respondent's compliance with the terms and conditions of her

25 probation. Failure to cooperate shall be considered a violation of probation.

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1 **6. Notice to Employers**

2 During the period of probation, respondent shall notify all present and prospective
3 employers of the decision in case number SI 2011 4224 and the terms, conditions and restrictions
4 imposed on respondent by the decision, as follows:

5 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
6 respondent undertaking any new employment, respondent shall cause her direct supervisor,
7 pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's
8 tenure of employment) and owner to report to the board in writing acknowledging that the listed
9 individual(s) has/have read the decision in case number SI 2011 4224 and the terms and
10 conditions imposed thereby. It shall be respondent's responsibility to ensure that her employer(s)
11 and/or supervisor(s) submit timely acknowledgement(s) to the board.

12 If respondent works for or is employed by or through a pharmacy employment service,
13 respondent must notify her direct supervisor, pharmacist-in-charge and owner at every pharmacy
14 of the terms and conditions of the decision in case number SI 2011 4224 in advance of the
15 respondent commencing work at each pharmacy. A record of this notification must be provided
16 to the board upon request.

17 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
18 (15) days of respondent undertaking any new employment by or through a pharmacy employment
19 service, respondent shall cause her direct supervisor with the pharmacy employment service to
20 report to the board in writing acknowledging that she has read the decision in case number SI
21 2011 4224 and the terms and conditions imposed thereby. It shall be respondent's responsibility
22 to ensure that her employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the
23 board.

24 Failure to timely notify present or prospective employer(s) or to cause that/those
25 employer(s) to submit timely acknowledgements to the board shall be considered a violation of
26 probation.

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1 "Employment" within the meaning of this provision shall include any full-time,
2 part-time, temporary or relief service or pharmacy management service as a pharmacy
3 technician or in any position for which a pharmacy technician license is a requirement
4 or criterion for employment, whether the respondent is considered an employee,
5 independent contractor or volunteer.

6 **7. Probation Monitoring Costs**

7 Respondent shall pay any costs associated with probation monitoring as determined by the
8 board each and every year of probation. Such costs shall be payable to the board on a schedule as
9 directed by the board or its designee. Failure to pay such costs by the deadline(s) as directed shall
10 be considered a violation of probation.

11 **8. Status of License**

12 Respondent shall, at all times while on probation, maintain an active, current pharmacy
13 technician license with the board, including any period during which suspension or probation is
14 tolled. Failure to maintain an active, current license shall be considered a violation of probation.

15 If respondent's pharmacy technician license expires or is cancelled by operation of law or
16 otherwise at any time during the period of probation, including any extensions thereof due to
17 tolling or otherwise, upon renewal or reapplication respondent's license shall be subject to all
18 terms and conditions of this probation not previously satisfied.

19 **9. License Surrender While on Probation/Suspension**

20 Following the effective date of this decision, should respondent cease work due to
21 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,
22 respondent may tender her pharmacy technician license to the board for surrender. The board or
23 its designee shall have the discretion whether to grant the request for surrender or take any other
24 action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the
25 license, respondent will no longer be subject to the terms and conditions of probation. This
26 surrender constitutes a record of discipline and shall become a part of the respondent's license
27 history with the board.

1 Upon acceptance of the surrender, respondent shall relinquish her pharmacy technician
2 license to the board within ten (10) days of notification by the board that the surrender is
3 accepted. Respondent may not reapply for any license, permit, or registration from the board for
4 three (3) years from the effective date of the surrender. Respondent shall meet all requirements
5 applicable to the license sought as of the date the application for that license is submitted to the
6 board.

7 **10. Notification of a Change in Name, Residence Address, Mailing Address or**
8 **Employment**

9 Respondent shall notify the board in writing within ten (10) days of any change of
10 employment. Said notification shall include the reasons for leaving, the address of the new
11 employer, the name of the supervisor and owner, and the work schedule if known. Respondent
12 shall further notify the board in writing within ten (10) days of a change in name, residence
13 address and mailing address, or phone number.

14 Failure to timely notify the board of any change in employer(s), name(s), address(es), or
15 phone number(s) shall be considered a violation of probation.

16 **11. Tolling of Probation**

17 Except during periods of suspension, respondent shall, at all times while on probation, be
18 employed as a pharmacy technician in California for a minimum of 40 hours per calendar month.
19 Any month during which this minimum is not met shall toll the period of probation, i.e., the
20 period of probation shall be extended by one month for each month during which this minimum is
21 not met. During any such period of tolling of probation, respondent must nonetheless comply
22 with all terms and conditions of probation.

23 Should respondent, regardless of residency, for any reason (including vacation) cease
24 working as a pharmacy technician for a minimum of 40 hours per calendar month in California,
25 respondent must notify the board in writing within ten (10) days of cessation of work and must
26 further notify the board in writing within ten (10) days of the resumption of the work. Any
27 failure to provide such notification(s) shall be considered a violation of probation.
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1 It is a violation of probation for respondent's probation to remain tolled pursuant to
2 the provisions of this condition for a total period, counting consecutive and non-consecutive
3 months, exceeding thirty-six (36) months.

4 "Cessation of work" means calendar month during which respondent is not working for at
5 least 40 hours as a pharmacy technician, as defined in Business and Professions Code section
6 4115. "Resumption of work" means any calendar month during which respondent is working as a
7 pharmacy technician for at least 40 hours as a pharmacy technician as defined by Business and
8 Professions Code section 4115.

9 **12. Violation of Probation**

10 If a respondent has not complied with any term or condition of probation, the board shall
11 have continuing jurisdiction over respondent, and probation shall automatically be extended, until
12 all terms and conditions have been satisfied or the board has taken other action as deemed
13 appropriate to treat the failure to comply as a violation of probation, to terminate probation, and
14 to impose the penalty that was stayed.

15 If respondent violates probation in any respect, the board, after giving respondent notice
16 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
17 was stayed. Notice and opportunity to be heard are not required for those provisions stating that a
18 violation thereof may lead to automatic termination of the stay and/or revocation of the license. If
19 a petition to revoke probation or an accusation is filed against respondent during probation, the
20 board shall have continuing jurisdiction, and the period of probation shall be automatically
21 extended until the petition to revoke probation or accusation is heard and decided.

22 **13. Completion of Probation**

23 Upon written notice by the board indicating successful completion of probation,
24 respondent's pharmacy technician license will be fully restored.

25 **14. No Ownership of Licensed Premises**

26 Respondent shall not own, have any legal or beneficial interest in, or serve as a manager,
27 administrator, member, officer, director, trustee, associate, or partner of any business, firm,
28 partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell

1 or transfer any legal or beneficial interest in any entity licensed by the board within ninety (90)
2 days following the effective date of this decision and shall immediately thereafter provide written
3 proof thereof to the board. Failure to timely divest any legal or beneficial interest(s) or provide
4 documentation thereof shall be considered a violation of probation.

5 Respondent shall not acquire any new ownership, legal or beneficial interest nor serve as a
6 manager, administrator, member, officer, director, trustee, associate, or partner of any additional
7 business, firm, partnership, or corporation licensed by the board. If respondent currently owns or
8 has any legal or beneficial interest in, or serve as a manager, administrator, member, officer,
9 director, trustee, associate, or partner of any business, firm, partnership, or corporation currently
10 or hereinafter licensed by the board, respondent may continue to serve in such capacity or hold
11 that interest, but only to the extent of that position or interest as of the effective of this decision.
12 Violation of this restriction shall be considered a violation of probation.

13 **15. Attend Substance Abuse Recovery Relapse Prevention and Support Groups**

14 Within thirty (30) days of the date of a positive drug test, respondent shall begin regular
15 attendance at a recognized and established substance abuse recovery support group in California,
16 (e.g., Alcoholics Anonymous, Narcotics Anonymous, etc.) which has been approved by the board
17 or its designee. Respondent must attend at least one group meeting per week unless otherwise
18 directed by the board or its designee. Respondent shall continue regular attendance and submit
19 signed and dated documentation confirming attendance with each quarterly report for the duration
20 of probation. Failure to attend or submit documentation thereof shall be considered a violation of
21 probation.

22 **16. Random Drug Screening**

23 Respondent, at her own expense, shall participate in random testing, including but not
24 limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or other drug
25 screening program as directed by the board or its designee. Respondent may be required to
26 participate in testing for the entire probation period and the frequency of testing will be
27 determined by the board or its designee. At all times respondent shall fully cooperate with the
28 board or its designee, and shall, when directed, submit to such tests and samples for the detection

1 of alcohol, narcotics, hypnotics, dangerous drugs or other controlled substances as the board or its
2 designee may direct. Failure to timely submit to testing as directed shall be considered a violation
3 of probation. Upon request of the board or its designee, respondent shall provide documentation
4 from a licensed practitioner that the prescription for a detected drug was legitimately issued and is
5 a necessary part of the treatment of the respondent. Failure to timely provide such documentation
6 shall be considered a violation of probation. Any confirmed positive test for alcohol or for any
7 drug not lawfully prescribed by a licensed practitioner as part of a documented medical treatment
8 shall be considered a violation of probation and shall result in the automatic suspension of work
9 by respondent. Respondent may not resume work as a pharmacy technician until notified by the
10 board in writing.

11 During suspension, respondent shall not enter any pharmacy area or any portion of or any
12 other board licensed premises (wholesaler, veterinary food-animal drug retailer or any other
13 distributor of drugs) any drug manufacturer, or any other location where dangerous drugs and
14 devices or controlled substances are maintained. Respondent shall not do any act involving drug
15 selection, selection of stock, manufacturing, compounding or dispensing; nor shall respondent
16 manage, administer, or assist any licensee of the board. Respondent shall not have access to or
17 control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled
18 substances. Respondent shall not resume work until notified by the board.

19 Respondent shall not direct, control or perform any aspect of the practice of pharmacy.
20 Subject to the above restrictions, respondent may continue to own or hold an interest in any
21 licensed premises in which she holds an interest at the time this decision becomes effective unless
22 otherwise specified in this order.

23 Failure to comply with this suspension shall be considered a violation of probation.

24 **17. Notification of Departure**

25 Prior to leaving the probationary geographic area designated by the board or its designee for
26 a period greater than twenty-four (24) hours, respondent shall notify the board verbally and in
27 writing of the dates of departure and return. Failure to comply with this provision shall be
28 considered a violation of probation.

1 **18. Abstain from Drugs and Alcohol Use**

2 Respondent shall completely abstain from the possession or use of alcohol, controlled
3 substances, dangerous drugs and their associated paraphernalia except when the drugs are
4 lawfully prescribed by a licensed practitioner as part of a documented medical treatment. Upon
5 request of the board or its designee, respondent shall provide documentation from the licensed
6 practitioner that the prescription for the drug was legitimately issued and is a necessary part of the
7 treatment of the respondent. Failure to timely provide such documentation shall be considered a
8 violation of probation. Respondent shall ensure that she is not in the same physical location as
9 individuals who are using illicit substances even if respondent is not personally ingesting the
10 drugs. Any possession or use of alcohol, controlled substances, or their associated paraphernalia
11 not supported by the documentation timely provided, and/or any physical proximity to persons
12 using illicit substances, shall be considered a violation of probation.

13 **19. Prescription Coordination and Monitoring of Prescription Use**

14 Within thirty (30) days of the effective date of this decision, respondent shall submit to the
15 board, for its prior approval, the name and qualifications of a single physician, nurse practitioner,
16 physician assistant, or psychiatrist of respondent's choice, who shall be aware of the respondent's
17 history with the use of alcohol, controlled substances, and/or dangerous drugs and who will
18 coordinate and monitor any prescriptions for respondent for dangerous drugs, controlled
19 substances or mood-altering drugs. The approved practitioner shall be provided with a copy of the
20 board's statement of issues and decision. A record of this notification must be provided to the
21 board upon request. Respondent shall sign a release authorizing the practitioner to communicate
22 with the board about respondent's treatment(s). The coordinating physician, nurse practitioner,
23 physician assistant, or psychiatrist shall report to the board on a quarterly basis for the duration of
24 probation regarding respondent's compliance with this condition. If any substances considered
25 addictive have been prescribed, the report shall identify a program for the time limited use of any
26 such substances. The board may require that the single coordinating physician, nurse practitioner,
27 physician assistant or psychiatrist be a specialist in addictive medicine, or consult a specialist in
28 addictive medicine. Should respondent, for any reason, cease supervision by the approved

1 practitioner, respondent shall notify the board immediately and, within thirty (30) days of ceasing
2 treatment, submit the name of a replacement physician, nurse practitioner, physician assistant, or
3 psychiatrist of respondent's choice to the board or its designee for its prior approval. Failure to
4 timely submit the selected practitioner or replacement practitioner to the board for approval, or to
5 ensure the required reporting thereby on the quarterly reports, shall be considered a violation of
6 probation.

7 If at any time an approved practitioner determines that respondent is unable to practice
8 safely or independently as a pharmacy technician, the practitioner shall notify the board
9 immediately by telephone and follow up by written letter within three (3) working days. Upon
10 notification from the board or its designee of this determination, respondent shall be
11 automatically suspended and shall not resume practice until notified by the board that practice
12 may be resumed.

13 During suspension, respondent shall not enter any pharmacy area or any portion of the
14 licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of
15 drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices
16 or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act
17 involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient
18 consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the
19 board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs
20 and controlled substances. Respondent shall not resume practice until notified by the board.

21 During suspension, respondent shall not engage in any activity that requires the
22 professional judgment of a pharmacy technician. Respondent shall not direct or control any
23 aspect of the practice of pharmacy. Respondent shall not perform the duties of a pharmacy
24 technician or a designated representative for any entity licensed by the board.

25 Failure to comply with this suspension shall be considered a violation of probation.

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ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my Pharmacy Technician Registration. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED:

8/28/12

Liew K. Saetern

LIEW K. SAETERN
Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

Dated: 21 AUGUST 2012

Respectfully submitted,

KAMALEN D. HARRIS
Attorney General of California
DANIEL SOKOLICE
Supervising Deputy Attorney General

SHANA A. BAGLEY
Deputy Attorney General
Attorneys for Complainant

21-20124010100 Supervision of

ACCEPTANCE

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DATED: _____

LIEW K. SAETURN
Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

Dated: 21 AUGUST 2012

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
DIANN SOKOLOFF
Supervising Deputy Attorney General

SHANA A. BAGLEY
Deputy Attorney General
Attorneys for Complainant

SF2012401030/ Stipulation.rtf

Exhibit A

Statement of Issues No. SI 2011 4224

1 KAMALA D. HARRIS
Attorney General of California
2 DIANN SOKOLOFF
Supervising Deputy Attorney General
3 SHANA A. BAGLEY
Deputy Attorney General
4 State Bar No. 169423
1515 Clay Street, 20th Floor
5 P.O. Box 70550
Oakland, CA 94612-0550
6 Telephone: (510) 622-2129
Facsimile: (510) 622-2270
7 *Attorneys for Complainant*

8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Statement of Issues
Against:

Case No. 4224

12 **LIEW K. SAETURN**

STATEMENT OF ISSUES

13 Respondent.

14
15 Complainant alleges:

16 **PARTIES**

17 1. Virginia Herold (Complainant) brings this Statement of Issues solely in her official
18 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs
19 (Board).
20

21 2. On or about February 18, 2011, the Board received an Application for Registration as
22 a Pharmacy Technician from Liew K. Saeturn (Respondent). On or about January 12, 2011,
23 Respondent certified under penalty of perjury to the truthfulness of all statements, answers, and
24 representations in the application. The Board denied the application on October 6, 2011.

25 **JURISDICTION**

26 3. This Statement of Issues is brought before the Board under the authority of the
27 following laws. All section references are to the Business and Professions Code (Code) unless
28 otherwise indicated.

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1 qualifications, functions, or duties of the business or profession for which the
2 licensee's license was issued.

3 (c) A conviction within the meaning of this section means a plea or verdict of
4 guilty or a conviction following a plea of nolo contendere. Any action that a board is
5 permitted to take following the establishment of a conviction may be taken when the
6 time for appeal has elapsed, or the judgment of conviction has been affirmed on
7 appeal, or when an order granting probation is made suspending the imposition of
8 sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of
9 the Penal Code.

10 6. Code section 493 states, in part:

11 Notwithstanding any other provision of law, in a proceeding conducted by a
12 board within the department pursuant to law to deny an application for a license or to
13 suspend or revoke a license or otherwise take disciplinary action against a person who
14 holds a license, upon the ground that the applicant or the licensee has been convicted
15 of a crime substantially related to the qualifications, functions, and duties of the
16 licensee in question, the record of conviction of the crime shall be conclusive
17 evidence of the fact that the conviction occurred, but only of that fact, and the board
18 may inquire into the circumstances surrounding the commission of the crime in order
19 to fix the degree of discipline or to determine if the conviction is substantially related
20 to the qualifications, functions, and duties of the licensee in question.

21 7. Code section 4300 provides, in pertinent part, that every license issued by the Board
22 is subject to discipline, including suspension or revocation.

23 8. Code section 4301 states, in part:

24 The board shall take action against any holder of a license who is guilty of
25 unprofessional conduct or whose license has been procured by fraud or
26 misrepresentation or issued by mistake. Unprofessional conduct shall include, but is
27 not limited to, any of the following:

28 ...

(1) The conviction of a crime substantially related to the qualifications,
functions, and duties of a licensee under this chapter. The record of conviction of a
violation of Chapter 13 (commencing with Section 801) of Title 21 of the United
States Code regulating controlled substances or of a violation of the statutes of this
state regulating controlled substances or dangerous drugs shall be conclusive
evidence of unprofessional conduct. In all other cases, the record of conviction shall
be conclusive evidence only of the fact that the conviction occurred. The board may
inquire into the circumstances surrounding the commission of the crime, in order to
fix the degree of discipline or, in the case of a conviction not involving controlled
substances or dangerous drugs, to determine if the conviction is of an offense
substantially related to the qualifications, functions, and duties of a licensee under this

1 chapter. A plea or verdict of guilty or a conviction following a plea of nolo
2 contendere is deemed to be a conviction within the meaning of this provision. The
3 board may take action when the time for appeal has elapsed, or the judgment of
4 conviction has been affirmed on appeal or when an order granting probation is made
5 suspending the imposition of sentence, irrespective of a subsequent order under
6 Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of
7 guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or
8 dismissing the accusation, information, or indictment.

9 ...
10 (p) Actions or conduct that would have warranted denial of a license.

11 REGULATORY PROVISIONS

12 9. California Code of Regulations, title 16, section 1770 provides, in part:

13 For the purpose of denial, suspension, or revocation of a personal or facility
14 license pursuant to Division 1.5 (commencing with Section 475) of the Business and
15 Professions Code, a crime or act shall be considered substantially related to the
16 qualifications, functions or duties of a licensee or registrant if to a substantial degree
17 it evidences present or potential unfitness of a licensee or registrant to perform the
18 functions authorized by his license or registration in a manner consistent with the
19 public health, safety, or welfare.

20 FIRST CAUSE FOR DENIAL OF APPLICATION

21 (Substantially Related Convictions)
22 (Bus. & Prof. Code §§480(a)(1))

23 10. Respondent's application is subject to denial under Code sections 480, subdivision
24 (a)(1), in that she was convicted of crimes substantially related to the qualifications, functions,
25 and duties of a licensed pharmacy technician, within the meaning of California Code of
26 Regulations, title 16, section 1770. The circumstances are as follows:

27 11. On or about March 5, 2007, in a criminal proceeding entitled *People v. Liew Saetunn*
28 in San Mateo County, Case Number SCO61311B, Respondent was convicted for violating Penal
Code section 32 (Accessory to a Crime), a felony.

a. Respondent was sentenced to serve 2 years of probation and 45 days in county
jail and to comply with other terms and conditions.

b. The underlying events that gave rise to the conviction are as follows: on or
about April 28, 2006, the Daly City Police Department found 2 pistols and 2 plastic bags

1 containing marijuana residue in Respondent's car during a parole search involving Respondent's
2 boyfriend. Respondent admitted that after hearing that her boyfriend was arrested, she went to his
3 house and flushed down the toilet 2 bags of marijuana and 30 ecstasy¹ pills. She also admitted
4 that she put the emptied-marijuana bags and 2 pistols in her car.

5 12. On or about April 11, 2007, in a criminal proceeding entitled *People v. Liew Saetern*
6 in San Francisco County, Case Number 2292285, Respondent was convicted for violating
7 Vehicle Code section 23152 (Driving While Under the Influence of Alcohol), a misdemeanor.

8 a. Respondent was sentenced to serve 3 years of probation and 2 days in county
9 jail, to complete a first offender drinking driver program, and to comply with other terms and
10 conditions.

11 b. The underlying events that gave rise to the conviction are as follows: on or
12 about November 17, 2006, the California Highway Patrol stopped Respondent after observing her
13 weaving in between traffic lanes on Interstate 80 in San Francisco, California. The arresting
14 officer observed that she had slow and slurred speech and a strong odor of alcohol on her breath.
15 Respondent admitted to drinking 5 shots of vodka. Her blood alcohol level was .12%.

16 **SECOND CAUSE FOR DENIAL OF APPLICATION**

17 (Dishonesty, Fraud, or Deceit)
18 (Bus. & Prof. Code §480(a)(2))

19 13. Respondent's application is subject to denial under Code section 480, subdivision
20 (a)(2), in that Respondent committed dishonest acts, fraud, or deceit with the intent to
21 substantially benefit herself, or substantially injure another. Complainant refers to, and by this
22 reference incorporates, the allegations set forth above in paragraph 11 and its subparts, above, as
23 though set forth fully.

24 ///

25 ///

26 ///

27 _____
28 ¹ MDMA or 3, 4-methylenedioxymethamphetamine, a controlled substance.

THIRD CAUSE FOR DENIAL OF APPLICATION
(Acts Which if Done by Licentiate Would be Cause for Discipline)
(Bus. & Prof. Code §480(a)(3) and 4301(p))

14. Respondent's application is subject to denial under Code section 480, subdivision (a)(3), and 4301, subdivision (p), in that Respondent committed acts which if done by a licentiate would be grounds for suspension or revocation of her license. Respondent was convicted of crimes substantially related to the qualifications, functions, or duties of a pharmacy technician in violation of Code sections 490 and 4301, subdivision (l), and in conjunction with California Code of Regulations, title 16, section 1770. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 11 and 12 and their sub-parts, above, as though set forth fully.

FOURTH CAUSE FOR DENIAL OF APPLICATION
(Failure to Disclose Convictions on Application)
(Bus. & Prof. Code §480(c))

15. Respondent's application is subject to denial under Code section 480, subdivision (c), in that she knowingly made a false statement of fact required to be revealed in the application for the license. Paragraph 6 of the Application for Registration as a Pharmacy Technician stated, in part: "Have you ever been convicted of or plead no contest to a violation of any law of a foreign country, the United States or any state laws or local ordinances? You must include all felonies and misdemeanors regardless of the age of the conviction, including those which have been set aside under Penal code section 1203.4." Respondent failed to disclose her 2007 convictions for violating Penal Code section 32 and Vehicle Code section 23152. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 11 and 12 and their sub-parts, above, as though set forth fully.

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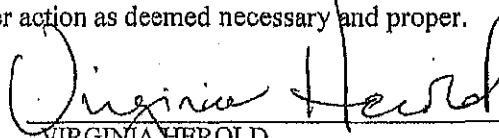
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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this Statement of Issues, and that following the hearing, the Board of Pharmacy issue a decision:

1. Denying the application of Liew K. Saetern for a Pharmacy Technician License; and
2. Taking such other and further action as deemed necessary and proper.

DATED: 5/29/12



VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

SF2012401030/ statement of issues.rtf